



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND MNDC FF

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on September 26, 2103, by the Landlords to obtain a Monetary Order for: damage to the unit, site or property, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Landlords and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

### Issue(s) to be Decided

Does this application meet the requirements of the *Residential Tenancy Act*?

### Background and Evidence

At the outset of this proceeding the Landlord testified that their claim was filed in anticipation of a loss they will incur as the result of the Tenant's alleged negligence which caused damage to the unit below. They listed an estimated amount of that loss at \$5,000.00 as that would be the maximum amount of the Strata's insurance deductible.

The Landlord stated that the repairs to the unit below the rental unit were completed, however, the Strata had not yet determined the total cost and had not billed the Landlord. She confirmed that as of the time of the hearing they have not suffered a loss yet as they have not been informed of the amount owing.

### Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement;
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation;
3. *The value of the loss*; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Section 59 (2)(b) of the Act stipulates that an application for dispute resolution must include full particulars of the dispute that is to be the subject of the dispute resolution proceedings. Section 59 (5)(c) of the Act states that the director may refuse to accept an application for dispute resolution if the application does not comply with subsection (2).

In this case, the Landlords filed their application in *anticipation of a loss*; however, at the time the hearing was conducted, the Landlords had not yet suffered a loss. Therefore, it is my finding that this application is premature. I therefore dismiss this claim with leave to re-apply.

The Landlords have not been successful with this application; therefore I decline to award recovery of the filing fee.

### Conclusion

I HEREBY DISMISS The Landlord's claim, with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 31, 2013

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Residential Tenancy Branch

